

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 15, 2004
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell congratulated Council Member Best on his recent wedding and read a proclamation declaring March 2004 as Red Cross Month and one honoring former Mayor Harry E. Rodenhizer, Jr.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested that Consent Agenda Item #14 [Proposed Two-Thirds Bonds Issuance] be pulled and placed on the General Business Agenda. Relative to Consent Agenda Item #6 [Access to American Tobacco Trail at Apex Street], she asked that the wording be changed from Research Triangle Park to Recreation Trails Program. Also, she expressed thanks to everyone who wished her mother well during her sickness.

There were no priority items from the City Attorney or City Clerk.

Mayor Pro Tempore Cole-McFadden congratulated Ruben Wall of the Parks & Recreation Department for a fine job he did in working with the Church Basketball leagues.

Council Member Clement commented on the Coffee with Council session held this past Saturday.

Due to correspondence received from Commissioner Joe Bowser, Mayor Pro Tempore Cole-McFadden requested that an item concerning a construction of a sidewalk for Queens Ferry Court be added to the March 18, 2004 City Council Work Session agenda.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items #1 [2004 Legislative Program]; 5 [Contracts]; 10 [Contract SW –11 North Area Sidewalks]; 11 [Contract SW – 12 South Area Sidewalks]; 12 [Call Center Software Contract]; 17 [Redevelopment Strategy for Barnes Avenue]; 24 [Full

March 15, 2004

Frame Documentary Film Festival]; 26 [Isaac Woods] and 29 [Access Management Plan for MLK].

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda as amended was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES – CITY CLERK’S OFFICE

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve the minutes for the February 16, 2004 regular City Council Meeting; and

To approve City Council action taken at the February 19, 2004 City Council Work Session was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM AREA TRANSIT AUTHORITY – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive and accept an application for a citizen to fill one (1) vacancy for a Regular Member on the Durham Area Transit Authority with a term expiring March 1, 2007 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications to fill two (2) vacancies on the City-County Appearance Commission with terms expiring on April 1, 2007 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

March 15, 2004

SUBJECT: ACCESS TO AMERICAN TOBACCO TRAIL AT APEX STREET

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to accept the Recreation Trails Program grant of \$50,000 from the North Carolina Department of Environment and Natural Resources (NCDENR); and

To approve a Grant Project Ordinance to make the Trails Funds available for Construction Prior to Reimbursement; and

To approve a Capital Project Ordinance Amendment for “Culture and Recreational Capital Projects” by increasing it by \$68,000 by inserting the Figure \$39,016,307 in place of the Figure \$38,948,307 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #s 12924 - 12925

SUBJECT: STREET CLOSING (SC03-06) – SET HEARING ON THE CLOSING OF 1,125.88 LINEAR FEET (33,780 SQUARE FEET) OF TRAPP HILL PLACE – STELIC ENTERPRISES, INC.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to adopt a resolution to set the public hearing on the proposed closing of 1,125.88 linear feet (33,780 square feet) of Trapp Hill Place for April 5, 2004 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9092

SUBJECT: STREET CLOSING (SC03-07) – SET HEARING ON THE CLOSING OF 707.12 LINEAR FEET (21,207 SQUARE FEET) OF AN UNNAMED STREET WEST OF COLE MILL ROAD – STELIC ENTERPRISES, INC.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to adopt a resolution to set the public hearing on the proposed closing of 707.12 linear feet (21,207 square feet) of an unnamed street west of Cole Mill Road for April 5, 2004 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9093

March 15, 2004

SUBJECT: MAJOR SITE PLAN - "CREEKSIDE" (D03-576)

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve a major site plan for 'Creekside', submitted by the John R. McAdams Company, Inc. on behalf of D. R. Horton-Torrey Homes, for a 90 unit townhouse development on a 24-acre site zoned O&I-2 and F/J-B and to approve the developer's request for payment in lieu of construction of a sidewalk along T. W. Alexander Drive, located on the north side of T. W. Alexander Drive and east of Presidential Drive, Tax Reference 579-01-0001F and PIN 0749-04-82-2040, City Atlas Page 44, Blocks 3F and G was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CATALYST SOLUTIONS CUSTOMIZED TRAINING CONTRACT
– WORKFORCE INVESTMENT ACT**

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a customized training contract with Catalyst Solutions in the amount of \$90,000; and

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM CONVENTION & VISITORS BUREAU

To receive a presentation on the Impact Analysis of Visitor Related Taxes.

Note: This item was moved to the March 18, 2004 Work Session.

**SUBJECT: DURHAM WORKFORCE DEVELOPMENT BOARD END OF
YEAR REPORT (2002-2003)**

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a presentation on the Durham Workforce Development Board End of Year Report (2002-2003) was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

March 15, 2004

SUBJECT: 2003 END OF YEAR CRIME REPORT – POLICE DEPARTMENT

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a presentation on the 2003 End of Year Crime Report was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: SOUTHSIDE AUTO PARTS, CITY AUTO SALVAGE AND
WAGNER AUTO PARTS - JOSEPH GUARLIA, SR.**

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive comments from Joseph Guarlia, Sr. regarding the plans to rezone the three auto parts businesses was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: END OF LEASE PURCHASE OF TWO IBM ISERIES
COMPUTERS FOR EMERGENCY INFORMATION SYSTEMS –
IBM CREDIT CORPORATION**

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the option to purchase in the existing term lease master agreement with IBM Credit Corporation for the acquisition of two mid-range IBM iSeries computers currently under lease to the City for an amount not to exceed \$38,460 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT UPGRADE OF EXISTING 9-1-1 PHONE SYSTEM -
SPRINT/NORTH CAROLINA, CAROLINA TELEPHONE**

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract with Sprint/North Carolina, Carolina Telephone in the amount of \$129,272 for the upgrade of existing the E911 telephone system, including related PC workstations and software; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

March 15, 2004

SUBJECT: NEW HORIZONS SCHOOL

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive comments from Martina Dunford regarding Durham Public Schools not Financially supporting New Horizons and for Council to hold Durham Public Schools accountable and to reconsider Council's earlier action was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: APPROVE THE EXTENSION OF THE EXISTING LOAN ORIGINATION AND SERVICING CONTRACTS WITH CENTRAL CAROLINA BANK, A DIVISION OF NATIONAL BANK OF COMMERCE

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to approve the extension of the existing loan origination and servicing contracts with Central Carolina Bank from March 31, 2004 to June 30, 2004; and

To authorize the City Manager to modify contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: U.S. MAYOR'S DUPONT LEAD GRANT RESPONSE

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a report on the U.S. Mayor's Dupont Lead Grant Response was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: 2004 LEGISLATIVE PROGRAM OUTLINE – SHORT SESSION

Council Member Stith stated he would be voting no on Items 1 and 2 under section I. Charter Amendments/Local Bills.

March 15, 2004

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive a report from the Legislative Committee and City Attorney; and

To approve the recommendations of the Legislative Committee on the 2004 Legislative Program was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

2004 LEGISLATIVE PROGRAM OUTLINE (SHORT SESSION)

I. CHARTER AMENDMENTS/LOCAL BILLS

1. Remove one-year sunset on additional \$5.00 motor vehicle tax authorized by General Assembly in 2003 and authorize the City to use these funds (not just the interest on the funds) for public transportation – from City Manager and Public Works Department. [Approved – Vote 6/1. Noes: Council Member Stith.]
2. Allow property owners that are “catty-corner” from a proposed rezoning to file a protest petition – from Ms. Catotti. [Approved – Vote 6/1. Noes: Council Member Stith.]
3. Allow property owners to file protest petitions to the initial zoning of property by the City – from Ms. Catotti.
4. Make a technical correction to Charter Section 102(b) regarding the authority of the Housing Appeals Board to hear appeals in “weedy lot” cases – from City Attorney’s Office.

II. GENERAL LAW

There are no general law proposals for the 2004 short session.

III. CARRYOVERS

It does not appear that any of the items in the City’s legislative program from last year remain eligible for consideration in the 2004 short session as a “carryover” item from the 2003 legislative session.

IV. OTHER

1. Resolution in support of proposals from North Carolina Metropolitan Coalition and Downtown Durham, Inc., including items to promote inner-City revitalization and economic development – from NC Metropolitan Coalition and DDI.

V. ITEMS FOR CONSIDERATION FOR 2005 LEGISLATIVE PROGRAM

March 15, 2004

Several proposals have been received that the City Manager recommends for consideration in the 2005 legislative program. The City will be developing the 2005 program this fall prior to the next regular session of the General Assembly commencing in January. The proposals are as follows:

1. Authorize municipalities to enact ordinances prohibiting discrimination in employment, housing and public accommodations, including necessary enforcement provisions – from Human Relations Commission and City Manager.
2. Require convenience stores, retail and food businesses, and eating establishments that hold an ABC permit and are located in development zones to not have alcoholic beverage sales in excess of fifty percent of the total annual sales of the business – from Mr. Clement.
3. Authorize municipalities to require property owners to register rental property with local government and obtain periodic certificates of compliance with minimum housing code requirements as a condition of occupancy of the property by tenants – from Ms. Catotti and City Manager.
4. Permit expanded use of 911 funds for purchases of radio equipment, radio towers and training of emergency communications personnel – from City Manager.
5. Authorize counties and municipalities to levy a menu of visitor-related local option taxes, including entertainment admissions, meals and an increase in the hotel room occupancy tax – from Durham Convention & Visitors Bureau.
6. Allow police officers who have retired and are drawing a pension from the Local Government Employee Retirement System to be reemployed by the City and continue to receive full retirement benefits while also receiving a paycheck from the City – from citizen.
7. Provide for reimbursement to municipalities by the State of North Carolina for lost property and sales tax revenue resulting from the presence of nonprofits within the boundaries of the municipality – from Mr. Brown.
8. Authorize a local option gasoline or sales tax by counties and municipalities in the area served by the Triangle Transit Authority, with the revenues to be used for public transit – from Assistant City Manager Voorhees.

VI. SUMMARY

Under the adjournment resolution approved by the General Assembly, the noncontroversial local bills are eligible for consideration in the 2004 legislative session. In addition to the usual deliberations on the merits of the legislative referrals, the City Council may wish to give some thought as to which of the local proposals are likely to be sufficiently noncontroversial to gain the necessary support of the local legislators.

March 15, 2004

SUBJECT: CONTRACTS

Council Member Stith asked a question that was answered by staff concerning the projected savings associated with the Tradeweb contract.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amt
John Melvin	Sports Official	P&R	\$2,400.00
Kenneth Tennessen	Facilitator for CABW Workshop	PW	\$ 700.00
Dilsey Davis	ART Ventures Day Camp	P&R	\$2,500.00
Andrea Jackson	Computer Instructor	P&R	\$3,300.00
Joseph Daye Jr	Softball Official	P&R	\$2,800.00
Van Clark Jr	Softball Official	P&R	\$2,800.00
Gerald Haskins	Softball Official	P&R	\$2,800.00
Art Leperre	Soccer Official	P&R	\$ 500.00
Tradeweb	Online competitive bidding process for investments	Finance	\$8,400.00
Sheila Kendrick	CT Amendment-additional funds	P&R	\$1,500.00
Charlene Taylor	CT Amendment-additional funds	P&R	\$ 800.00
Suzzette Goldman	CT Amendment-additional funds	P&R	\$1,300.00
Brenda Thompson	CT Amendment-additional funds	P&R	\$1,000.00
Kendy Madden	CT Amendment-additional funds	P&R	\$1,500.00

SUBJECT: CONTRACT SW-11 NORTH AREA SIDEWALKS – WHITE OAK CONSTRUCTION COMPANY – ALSTON AVENUE – MARKHAM AVENUE – WASHINGTON STREET

Mayor Pro Tempore Cole-McFadden made comments on the low bid amount submitted by White Oak Construction Company and on the issue of change orders.

March 15, 2004

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to authorize the City Manager to execute a contract with White Oak Construction Corporation for Contract SW-11 North Area Sidewalks in the amount of \$225,882; and

To establish a contingency fund for Contract SW-11 of \$33,882; and

To authorize the City Manager to approve change orders for Contract SW-11 provided that the cost of all change orders does not exceed \$33,882 and the total project cost does not exceed \$259,764 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACT SW-12 SOUTH AREA SIDEWALKS – WHITE OAK CONSTRUCTION COMPANY - ACADEMY, CORNWALLIS AND PICKETT ROADS

Mayor Pro Tempore Cole-McFadden made comments on the low bid amount submitted by White Oak Construction Company and on the issue of change orders.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to authorize the City Manager to execute a contract with White Oak Construction Corporation for Contract SW-12 South Area Sidewalks in the amount of \$639,511; and

To establish a contingency fund for Contract SW-12 of \$96,489; and

To authorize the City Manager to approve change orders for Contract SW-12 provided that the cost of all change orders does not exceed \$96,489 and the total project cost does not exceed \$736,000 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CALL CENTER SOFTWARE CONTRACT – AZTECA SYSTEMS, INC.

Council Member Stith asked questions that were answered by staff concerning the ERP software.

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to execute the Citizen Request Management System contract with Azteca Systems, Inc. in the total amount of \$139,750, which is comprised of \$119,750 for the software and \$20,000 for maintenance; and

March 15, 2004

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: PROPOSED TWO-THIRDS BONDS ISSUANCE

To approve resolutions and introduce the order that will allow the Finance Department to proceed with the issuance of two-thirds bonds.

- a) Resolution making certain findings relating to the authorization and issuance of general obligation bonds of the City of Durham, North Carolina, and ratifying actions of the Finance Officer in filing application for approval thereof with the Local Government Commission, and related matters.
- b) Resolution calling a public hearing upon orders authorizing not exceeding \$6,800,000 Street Improvement Bonds, \$1,200,000 Parks and Recreation Facilities Bonds, \$1,000,000 Municipal Building Bonds, \$500,000 Sanitary Sewer Bonds and \$500,000 Public Safety Communications Bonds of the City of Durham, North Carolina.

Mayor Bell introduced the resolution for issuance of General Obligation Bonds.

City Manager Conner read by title and Mayor Bell summarized the following Resolution:

RESOLUTION MAKING CERTAIN FINDINGS RELATING TO THE
AUTHORIZATION AND ISSUANCE OF GENERAL OBLIGATION
BONDS OF THE CITY OF DURHAM, NORTH CAROLINA, AND
RATIFYING ACTIONS OF FINANCE OFFICER IN FILING
APPLICATION FOR APPROVAL THEREOF WITH LOCAL
GOVERNMENT COMMISSION AND RELATED MATTERS

Summary

This resolution makes the following findings applicable to the proposed \$10 million 2/3rds bonds:

- (a) the issuance of the Bonds is necessary or expedient for the City,
- (b) the proposed principal amount of the Bonds is adequate and not excessive for the proposed purposes of such Bonds,
- (c) the City's debt management procedures and policies are good and are managed in strict compliance with law,
- (d) the increase, if any, in taxes necessary to service the Bonds will not exceed 0.6¢ per \$100 assessed valuation and

March 15, 2004

- (e) under current economic conditions, the Bonds can be marketed at reasonable rates of interest.

This resolution also ratifies the actions of the Finance Officer in filing an application for approval of the Bonds with the Local Government Commission and retaining Sidley Austin Brown & Wood LLP and Michaux & Michaux, P.A. as Co-Bond Counsel and requesting the LGC to approve the financing team.

This resolution shall take effect immediately upon its passage.

Council Member Stith asked questions that were answered by staff concerning the impact on bond rating, funding sources and increase in taxes.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt a resolution making certain findings relating to the authorization and issuance of general obligation bonds of the City of Durham, North Carolina, and ratifying actions of the Finance Officer in filing application for approval thereof with the Local Government Commission, and related matters was approved at 7:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

Resolution #9091

Mayor Bell introduced the bond orders describing the use of bond proceeds.

City Manager Conner read by title and summarized the following bond orders:

ORDER AUTHORIZING \$6,800,000 STREET IMPROVEMENT BONDS

The purpose of these bonds will be for providing street improvements, including, but without limiting the generality of the forgoing, constructing, reconstructing, widening, extending, resurfacing and improving thoroughfares, streets and roads; constructing, reconstructing, relocating and eliminating grade crossings and grade separations; constructing and installing traffic controls, signals, markers and lighting; constructing sidewalks, speed bumps, curbs, gutters, culverts and drains; acquiring necessary rights of way therefor; and paying related engineering costs.

ORDER AUTHORIZING \$1,200,000 PARKS AND RECREATIONAL FACILITIES BONDS

The purpose of these bonds will be for developing a community park, including the construction of soccer fields, baseball fields, restroom facilities and parking facilities.

March 15, 2004

**ORDER AUTHORIZING \$1,000,000
MUNICIPAL BUILDING BONDS**

The purpose of these bonds will be for renovating the City Hall, including, without limiting the generality of the foregoing, the reconstruction of elevators, the acquisition of a back-up generator and the construction of improvements necessary to comply with the Americans with Disabilities Act.

**ORDER AUTHORIZING \$500,000
SANITARY SEWER BONDS**

The purpose of these and improving the sanitary sewer system of said City, including, without limiting the generality of the foregoing, the construction of sewer outfalls.

**ORDER AUTHORIZING \$500,000
PUBLIC SAFETY COMMUNICATIONS BONDS**

The purpose of these bonds will be for acquiring radios for use by said City's police and fire departments.

All of the bond orders also call for the City, if necessary, to levy taxes in an amount sufficient to pay the principal of and the interest on said bonds.

Also, all of the bond orders also state that a sworn statement of the debt of said City has been filed with the City Clerk and is open to public inspection.

Finally, all bond orders take effect 30 days after publication following adoption, unless it is petitioned to a vote of the people.

The Finance Officer will now file the sworn statement of debt of the City which is required by The Local Government Bond Act.

Finance Officer Kenneth Pennoyer filed with the City Clerk, in the presence of the City Council, the sworn statement of debt as so required.

Mayor Bell introduced the resolution calling for a public hearing.

City Manager Conner read by title and summarized the following resolution:

RESOLUTION CALLING A PUBLIC HEARING UPON
ORDERS AUTHORIZING NOT EXCEEDING \$6,800,000
STREET IMPROVEMENT BONDS, \$1,200,000 PARKS AND
RECREATIONAL FACILITIES BONDS, \$1,000,000
MUNICIPAL BUILDING BONDS, \$500,000 SANITARY
SEWER BONDS AND \$500,000 PUBLIC SAFETY
COMMUNICATIONS BONDS OF THE CITY OF DURHAM,
NORTH CAROLINA

March 15, 2004

Summary:

This resolution sets a public hearing for 7:00 P.M., on April 5, 2004, in the Council Chamber at City Hall at which time the City Council will hear anyone who may wish to be heard on the questions of the validity of the orders read previously or the advisability of issuing said bonds.

This resolution shall take effect immediately upon its passage.

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to adopt a resolution calling a public hearing upon orders authorizing not exceeding \$6,800,000 Street Improvement Bonds, \$1,200,000 Parks and Recreation Facilities Bonds, \$1,000,000 Municipal Building Bonds, \$500,000 Sanitary Sewer Bonds and \$500,000 Public Safety Communications Bonds of the City of Durham, North Carolina was approved at 7:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

Resolution #9091

SUBJECT: REDEVELOPMENT STRATEGY FOR THE BARNES AVENUE AREA

Council Member Best expressed a concern with the sales prices for condo/single family units listed in the staff report.

City Manager Conner made comments on the market study conducted for this area.

Mayor Bell made comments in support of Barnes Avenue.

MOTION by Council Member Best seconded by Council Member Clement to receive an update on the Redevelopment Strategy for the Barnes Avenue Area was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: FULL FRAME DOCUMENTARY FILM FESTIVAL

To receive comments from Denise Schreiner requesting the sale of alcoholic beverages in the Civic Center Plaza during its annual spring festival on April 1-4, 2004; and

To approve the request to sale alcoholic beverages in the Civic Center Plaza during its annual spring festival on April 1-4, 2004.

March 15, 2004

Note: This item was approved at the March 4, 2004 City Council Work Session with a vote of 7/0.

Council Member Clement requested that this item be reconsidered to allow him to vote no since he was out of the room when the vote was taken on this issue.

MOTION by Council Member Clement seconded by Council Member Stith to reconsider the Council action taken on this item at the March 4, 2004 City Council Work Session was approved at 8:00 p.m. by the following vote: Ayes: Council Members Best, Brown, Catotti, Clement and Stith. Noes: Mayor Bell and Mayor Pro Tempore Cole-McFadden. Absent: None.

MOTION by Council Member Clement seconded by Council Member Stith to receive comments from Denise Schreiner requesting the sale of alcoholic beverages in the Civic Center Plaza during its annual spring festival on April 1-4, 2004; and

To approve the request to sale alcoholic beverages in the Civic Center Plaza during its annual spring festival on April 1-4, 2004 was approved at 8:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Stith. Noes: Council Member Clement. Absent: None.

SUBJECT: ISAAC WOODS

To receive comments from Isaac Woods requesting a sewer line and water line for Creekside Elementary School.

Council Member Clement requested an update on the meeting held with the school administration subsequent to the Work Session.

City Manager Conner briefed Council on the March 10th meeting noting there needs to be a follow-up with the architect that was recommended by the Woods family to review proposal and all the information was not available to make a recommendation; therefore, another meeting has been scheduled for March 18 at 10:00 a.m. and a report will be provided at the Work Session.

Council Member Clement asked that this matter be placed on the March 18th Work Session agenda.

Council Member Stith made comments on council's role.

Mayor Bell provided background information noting Council was asked to get involved at the request of the Woods family since the City does approve the extension of water and sewer for the area. The Mayor noted he does not know what position Council would take until the committee has submitted its latest report. Also, he commented on the first

March 15, 2004

request asking Council to stop the project, but the City Attorney advised Council that they were not in a position to take that action.

City Attorney Blinder made comments noting Council does not have the authority to stop the project since the water and sewer extension agreement was approved in March 2003.

Council Member Clement expressed concern with the process for this item.

MOTION by Council Member Stith seconded by Council Member Clement to receive comments from Isaac Woods requesting a sewer line and water line for Creekside Elementary School; and

To refer this item to the March 18, 2004 City Council Work Session was approved at 8:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: ACCESS MANAGEMENT PLAN FOR MLK PARKWAY

To direct the Administration to proceed with the development of an “access management plan” for Martin Luther King Parkway and that the Public Works Director place a moratorium on new curb cuts and median breaks for up to 180 days or until such time as an access management plan is adopted by City Council.

Council Member Clement spoke in support of this item and noted the curb cuts moratorium would in effect block what the developer for Valley Creek is proposing.

Public Works Director Katie Kalb made comments on this item.

City Manager Conner noted at the Work Session discussion was held on whether or not this would impact the Valley Creek development and noted staff would on the Valley Creek development address it on its own merits and then enter into a moratorium until the assessment has been completed.

Council Member Clement spoke in support of this item; however, he expressed concern that putting a moratorium in effect would stop the implementation of the Valley Creek proposal.

Council Member Stith expressed concern with this process since projects are in pipeline.

City Manager Conner noted the Valley Creek development proposal would come to Council in June.

Katie Kalb, Public Works Director, noted Lee Ventura, the developer for Valley Creek, wanted to know if the Valley Creek proposal would be approved with a median cut and

March 15, 2004

to-date staff has been opposed to this issue due to the loss of the landscaping and the resulting impact on MLK Parkway.

Mayor Bell asked the City Attorney how do you address the issue of a development not designed at this point requesting a median cut.

City Attorney Blinder made comments on the motion as printed on the agenda noting it would impose the moratorium for up to 180 days and there is nothing in the motion exempting projects in the pipeline and if Council wants to create an exemption the motion should be amended.

A motion was made by Council Member Clement seconded by Council Member Stith to direct the Administration to proceed with the development of an “access management plan” for Martin Luther King Parkway and that the Public Works Director place a moratorium on new curb cuts and median breaks for up to 180 days or until such time as an access management plan is adopted by City Council exempting projects in the pipeline.

Mayor Bell asked the administration how many projects are there in the pipeline.

City Manager Conner requested that this item be referred to the March 18, 2004 Work Session in order to provide projects that are currently in the system.

For clarification, Council Member Clement noted his motion is as printed on the agenda and to add a statement with the exception of the Valley Creek development.

Council Member Stith noted he seconded the motion because he thought it dealt with all projects in the pipeline. After discussion, Council Member Stith withdrew his second.

Council held discussion on not exempting one project but to exempt all projects in the pipeline.

A motion was made by Council Member Clement to refer this item to the March 18, 2004 City Council Work Session. Motion dies for a lack of a second.

Council Member Best spoke in opposition to imposing a moratorium since NCDOT guidelines are already in place.

City Manager Conner suggested that Council approve the access management plan only and evaluate each project on its merits.

Lee Ventura, representing the Valley Creek development, made comments on the Comprehensive Plan Steering Committee’s work noting they took several major corridors that need to address access plans with landscaping, land use issues. Also she noted there are pipeline projects that are officially not in the pipeline.

March 15, 2004

Earl Lewellyn made comments on the Traffic Impact Analysis for the Valley Creek Center development and noted NCDOT access management plan has been just put into place so anything that is new--access going into the parkway--will be better than what is there now. He noted this would be an opportunity to address landscaping issues by planting adjacent to the site and landscaping should not preclude access and access should not preclude landscaping.

Council Member Brown made comments on the timeframe to develop the access plan.

MOTION by Council Member Best seconded by Council Member Clement to direct the Administration to proceed with the development of an "access management plan" for Martin Luther King Parkway was approved at 8:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

**SUBJECT: VOLUNTARY ANNEXATION PETITION RECEIVED PRIOR TO
JANUARY 1, 2004 – HIGHLAND PARK – LEBANON
VOLUNTEER FIRE DEPARTMENT**

To adopt an ordinance annexing the Highland Park area to the City; and

To authorize the City Manager to pay the debt service of the affected Volunteer Fire Department, Lebanon, to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided to other areas for the Highland Park Subdivision Area--the recommended effective date for this annexation is March 15, 2004.

Budget Director Julie Brenman made comments on this item.

Mayor Bell opened the public hearing.

Keith Guile, of 5805 Genesee Drive, stated he had been facing sewer and water problems and was told eight years ago there was bond money available to correct septic problems; however, funds were redirected. He spoke in support of this annexation noting he would like to see this neighborhood project become a reality.

Carl Hicks expressed concern with water problems and support for this project.

Harvey Ellis, of 1214 Terry Road, made comments on the water and sewer problems he has experienced. He urged Council to support this annexation noting this development would be an asset to the neighborhood.

March 15, 2004

John Meadow, representing the Corner Stone Bible Church, expressed water quality concerns at the Church and spoke in support of water coming to the area.

Robert Vick, of 5934 Scalybark Road, noted he has no objection to this annexation. Also, he made comments concerning the water/sewer problems in the neighborhood.

Keith Brown, the developer, spoke in support of this item making comments on the proposed development. He noted the proposed water and sewer extension would bring utilities to many Durham residents where both water and sewer systems are failing and extension would be quite substantial thereby allowing the neighborhoods and the adjoining neighborhoods access to those utilities. Also, he noted the cross sectional housing will allow a viable opportunity for those being employed at places in Northern Durham to have adequate housing to allow residents to reside in Durham instead of Wake County.

Mayor Bell declared the public hearing closed.

Mayor Bell asked staff for clarification on the voluntary petition annexation in view of comments made by residents who somehow feel that this issue will enable them to receive water and sewer.

Assistant City Manager Ted Voorhees noted when persons request an extension agreement with the City, it is our policy to require them to request voluntary annexation. He noted persons may want to take advantage of the line to be installed to serve the neighborhood by tapping on at the existing tap fees that apply and they would be treated as an outside City customer or request annexation; however, the City does not know what the developer's representations were to anyone individual because they were private conversations and noted there will be some residents that benefit from this project.

Mayor Bell asked the administration to do an analysis on who benefits when water and sewer is extended to an area. Also, he asked the administration if petitions and/or interests have been expressed by residents from the East, South, North and West of this property for water and sewer lines.

City Manager Conner noted the administration does not have enough information at this meeting tonight to be able to respond to where these residents are located to be able to tap into the water line. Also, she noted Council has already approved the water and sewer agreement on this item.

Council Member Catotti made comments on the annexation and water & sewer extension agreement.

Mayor Bell asked staff if the proposed water and sewer extension requested by the developer would benefit property owners surrounding the site.

March 15, 2004

Katie Kalb, Public Works Director, noted generally water lines are sized to serve the entire area; sewers are sized to serve an entire drainage basin. She noted she does not have the particulars for this development tonight.

Keith Brown, the developer, commented on the location/size of these lines. He noted the Engineer Department noted they had to go to the outfall and extend the line up so that all neighborhoods would be able to access the main, which extended almost a mile of line rather than a third of a mile of line, and he has agreed to do that. Also, he noted the City required him to come in with two loops and he was able to position the lines so that more existing residents could have access to that and the size of those lines going down Guess Road are much larger than required by the neighborhood. Finally, he noted both the Willow Hill subdivision and along Scalybark in the past, specifically, Willow Hill have petitioned for water and sewer and at that time it was almost a unanimous petition, petition passed but appropriated funds were diverted to a different location.

Budget Director Julie Brenman noted by delaying the annexation there would be no impact to the City, but could impact the developer.

Keith Brown, the developer, noted every delay is a cost associated with that delay.

Mayor Bell asked staff do they feel comfortable with the comments made by Mr. Keith Brown, the developer.

Katie Kalb, Public Works Director, noted the Engineering Department has required them to put in the lines that will serve the whole area.

Based on comments made by staff, Mayor Bell noted he did not have any objections to moving forward with this item.

MOTION by Council Member Stith seconded by Council Member Best to adopt an ordinance annexing the Highland Park area to the City; and

To authorize the City Manager to pay the debt service of the affected Volunteer Fire Department, Lebanon, to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided to other areas for the Highland Park Subdivision Area--the recommended effective date for this annexation is March 15, 2004 was approved at 8:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12926

SUBJECT: ANNEXATION OF MUNICIPAL PROPERTY SUBMITTED PRIOR TO JANUARY 1, 2004 – C. M. HERNDON MUNICIPAL PROPERTY – PARKWOOD VOLUNTEER FIRE DEPARTMENT

March 15, 2004

Assistant City Manager Ted Voorhees made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to adopt an ordinance annexing the CM Herndon municipal property to the City; and

To authorize the City Manager to modify an existing contract with the affected Volunteer Fire Department, Parkwood, to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided under contract as to other areas for the CM Herndon Park Area--the recommended effective date for this annexation is March 15, 2004 was approved at 9:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #12927

SUBJECT: INITIAL ZONING CASE P03-29 – NC 55/ALEXANDER DRIVE - ALEXANDER DRIVE ASSOCIATES C/O FAWAZ SMADI AND NEWSOM, GRAHAM, HEDRICK & KENNON, P.A.

Assistant Planning Director Dick Hails briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments on initial zoning Case P03-29 (NC 55/Alexander Drive); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish I-2, RD, NC; F/J-B, zoning for the property described in the staff report was approved at 9:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING CASE P03-30 – STONE HILL ESTATES II – DURHAM LAND ASSOCIATES C/O NC FREEMAN HEIRS & BEAZER HOMES – NC 98 AND FREEMAN ROAD AND BETWEEN MINERAL SPRINGS AND CLAYTON ROADS

Assistant Planning Director Dick Hails briefed Council on the staff report.

March 15, 2004

Mayor opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to receive public comments on initial zoning Case P03-30 (Stone Hill Estates II); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-20; F/J-B zoning for the property described in the staff report was approved at 9:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING CASE P03-67 – MASSEY CHAPEL ROAD – JUNIUS EARL MAYNARD AND THE JOHN R. MCADAMS COMPANY, INC. – MASSEY CHAPEL ROAD AND FAYETTEVILLE ROAD

Assistant Planning Director Dick Hails briefed Council on the staff report.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to receive public comments on initial zoning Case P03-67 (Massey Chapel Road); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD; F/J-B zoning for the property described in the staff report was approved at 9:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 9:03 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk